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November 19, 1998

ORIGINAL

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, SW
TW-A325
Washington, DC 20554

Re: IB Docket No. 98-148
Notice of Ex Parte Presentation

Dear Ms. Salas:

SBC Communications Inc. ("SBC") hereby notifies the Commission pursuant to Section 1.1206 of the Commission's rules that it met yesterday afternoon with members of the Commission staff with regard to the above-captioned proceeding. Attending the meeting on behalf of the Commission were:

Diane Cornell
Robert McDonald
William Rogerson
Patrick DeGraba
Jeffrey Anspacher
Donald Stockdale

Attending the meeting on behalf of SBC were Stan Moore (for the LD affiliate), Kathy Rehmer, Link Brown, Tom Sugrue and Steve Strickland.

A copy of the presentation materials discussed at the meeting is attached. An original and one copy of this notice are being submitted to the Secretary's Office for inclusion in the record. In addition, copies are being furnished to the Commission personnel who attended the meeting.

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Ms. Roman Salas
November 19, 1998
Page 2

If you have any questions with regard to this matter, please direct them to the undersigned counsel for SBC Communications Inc.

Sincerely,

A handwritten signature in black ink, reading "Thomas J. Sugrue". The signature is fluid and cursive, with the first name "Thomas" and last name "Sugrue" clearly legible.

Thomas J. Sugrue
Counsel for SBC Communications Inc.

Attachment

cc: Diane Cornell
Robert McDonald
William Rogerson
Patrick DeGraba
Jeffrey Anspacher
Donald Stockdale

Regulation of International Accounting Rates
IB Docket No. 98-148

SBC Presentation on Grooming Arrangements

November 18, 1998

SUMMARY

- **Imposing grooming restrictions on BOCs in non-ISP arrangements is inconsistent with lifting the ISP and places new entrants at a competitive disadvantage.**
- **MCI and AT&T's contention that access charges are excessive is more appropriately addressed in the Commission's ongoing proceedings on access charge reform, price caps and universal service, not here.**
- **BOCs will not employ a "price squeeze" strategy.**
- **Section 272 safeguards are adequate protection against any hypothetical BOC price squeeze strategies.**
- **The Commission has consistently rejected MCI's price squeeze argument in other contexts.**

Imposing grooming restrictions on BOCs in non-ISP arrangements is inconsistent with lifting the ISP and places new entrants at a competitive disadvantage.

- Grooming arrangements are a natural part of the non-ISP world.
- U.S. carriers compete to terminate international traffic in geographic areas where costs are lowest, including costs of intercity transport and access charges.
- U.S. carriers of Internet traffic compete to terminate IP traffic near NAPs.
- Grooming results in rates based more closely on costs, enhancing economic efficiency.
- In a non-ISP world, uniformity of rates and proportionate return issues do not apply.
- Allowing non-BOCs the benefit of grooming arrangements, while denying BOCs the same benefits, would place BOCs at a competitive disadvantage.
- Requiring prior FCC approval would effectively prohibit the arrangement: the availability of non-ISP arrangements exists only for the competitor who can close a deal without delay.
- BOC LDs are non-dominant in the relevant market (with zero percent market share, compared to 97% collective share of the three largest incumbents). AT&T/MCI proposals favor status quo.

MCI and AT&T's contention that access charges are excessive is more appropriately addressed in the Commission's ongoing proceedings on access charge reform, price caps and universal service, not here.

- **See Non-Accounting Safeguards at Para. 259, in which the Commission addressed MCI's price squeeze argument in part by saying: "MCI's contention that access charges are excessive is more appropriately addressed in the Commission's forthcoming proceeding on access charges."**
- **In Access Charge Reform and Price Caps the Commission has made huge cuts in access charges, especially terminating access charges.**
- **The FCC is currently considering the possibility of making additional reductions to access charges, and has made clear that it will drive access charges to an appropriate level, if they are not already there.**
- **The FCC is in the process of making explicit the implicit subsidies contained in access charges. (6/1/99 date for non-rural high cost fund.) These subsidies do not provide excess profits or competitive advantages.**
 - **Implicit subsidies underwrite the provision of below-cost services (universal service).**
 - **Implicit subsidies make ILECs most profitable customers vulnerable to competitors.**

BOCs will not employ a "price squeeze" strategy.

- The Commission has been steadily decreasing BOC access charges. As access charges more closely reflect economic cost, the potential for a price squeeze is mitigated. LEC Regulatory Treatment Order at Para. 126. In this environment, BOCs would not believe they could successfully price squeeze.
- BOCs seek section 271 authority to provide in-region inter-LATA service. BOCs would not jeopardize their 271 filings by engaging in a price squeeze strategy.
- The emergence of competition in the provision of exchange access service constrains a BOC's ability to raise access prices, because of the availability of alternative access providers. LEC Regulatory Treatment Order at Para. 126, n 363. The ability of competing carriers to acquire access through the purchase of unbundled elements increases pressure on the BOCs to decrease access charges.
- It would not be economically rational to predatorily price international termination charges. There is no realistic possibility that SBC or any other BOC could drive out the incumbents and ultimately raise termination charges. Non-Accounting Safeguards Order at Para. 258 (the "danger of successful predation ... is small").

Section 272 safeguards are adequate protection against any hypothetical BOC price squeeze strategies.

- The BOC and its Section 272 separate affiliates must operate independently.
- BOC and 272 affiliate may not jointly own switching or transmission facilities (including lands and buildings).
- BOC and non-272 affiliates may not perform OI&M functions for a 272 affiliate.
- 272 affiliate may not perform OI&M for the BOC.
- 272 affiliate must maintain separate books, records and accounts from BOC.
- 272 affiliate must have separate officers, directors and employees from BOC.
- 272 affiliate may not obtain credit under arrangement to give creditor recourse to BOC assets.
- BOCs may not discriminate in favor of a Section 272 affiliate.
 - All transactions must be at arm's length, reduced to writing and made available for public inspection.

**Section 272 safeguards are adequate protection against any
hypothetical BOC price squeeze strategies. (Continued)**

- BOC and affiliate must have in place a written affiliate transaction agreement; a description of each transaction must be posted on the Internet.
- BOC must charge affiliate an amount for access no less than the amount charged to unaffiliated IXC's.
- BOC shall account for all transactions with a Section 272 separate affiliate in accordance with accounting principles designated or approved by the FCC.
- A BOC must provide facilities or services to its Section 272 separate at the same rates and on the same terms and conditions that it offers the same facilities or services to other carriers, and must allocate properly between the BOC and the affiliate the costs of such service.
- The FCC has held that a BOC section 272 affiliate that charges a rate for interLATA services below its incremental cost of providing such services would be in violation of sections 201 and 202 of the Act.
- A BOC must "impute to itself (if using the access for its provision of its own services) an amount for access to its telephone exchange service and exchange access that is no less than the amount charged to any unaffiliated interexchange carriers for such service." Section 272(e)(3).

Section 272 safeguards are adequate protection against any hypothetical BOC price squeeze strategies. (Continued)

- The Commission has adequate mechanisms to ensure compliance.
 - If a complaint establishes a prima facie violation of Section 272, BOCs have burden of proving compliance.
 - Biennial audit by an independent auditor ensures compliance.
 - Penalties for non-compliance include fines, remedial orders, and possible revocation of authority to provide interLATA services.
- Federal antitrust laws prohibit predatory pricing.

The Commission has consistently rejected MCI's Price Squeeze Argument in other contexts.

- Non-Accounting Safeguards Order.
- LEC Regulatory Treatment Order.